

Remarks

To address the Examiner's first concern, Applicants state that the claims were commonly owned at the time the inventions were made.

The Examiner rejected claims 1-4 under 35 U.S.C. §103(a) as being unpatentable over Kanji, et al (US2002/0114773). In the rejection, the Examiner describes that Kanji, et al does not teach the specific combination of the above resins (i.e. a MQ resin with a propylsilsesquioxane resin) in a resin composition. The Examiner however, goes on to say that a person skilled in the art would have been motivated to pick these two types of film-forming resins and combine them as part of a composition because they each bring different properties to the composition (the MQ resins are typically harder while the silsesquioxanes are generally continuous and flexible) and combining them can help maximize transfer resistant properties as well as pliability, softness, and wearing comfort of the composition.)

Applicants respectfully disagree. Kanji et al describes using a MQ resin, a methyl silsesquioxane resin (T methyl resin) or a mixture. As the Examiner points out, Kanji et al also states that the methyl in the silsesquioxane resin may be replaced by R which is a longer carbon chain – however no examples are provided. Applicants specifically require a MQ resin and a propylsilsesquioxane resin (T propyl resin). As indicated in Table 1 of the present application, the examples of the present application demonstrate the compatibility of the T propyl resins with the MQ resin. This is indicated by examples 1 to 6 which all illustrate “clear” compositions. In contrast, comparative examples illustrate compositions, as shown in Table 2, where T methyl resins are incompatible with MQ resins. This is indicated by the fact that comparative examples 7 to 19 all illustrate compositions which are “hazy”. Compatibility of the two essential components is very important since if the components are compatible it enables the scientist to adjust or “dial in” the desired properties. For example, as shown in the Table 1, the brittleness and hardness of the resulting composition can be adjusted by changing the ratio of MQ to T propyl resin. Referring to a specific composition, for example, the hardness of lipstick can be adjusted so that it is not too hard, which may be uncomfortable, or too soft which may be sticky.

The fact that the T propyl resins are compatible with the MQ resin while the T methyl resins are not compatible is surprising. The inventors of the present application have indicated that this compatibility is surprising because the MQ resin and T methyl resin would be expected to be compatible because the MQ resin and T methyl resin both contain similar groups, that is the methyl group, and it would be deduced from this that these resins would therefore be compatible. As shown in the examples of the present application in conjunction with the comparative examples, however, this is not the case and the particular combination of resins according to the present invention results in expected technical advantages.

Applicants therefore submit that the claims of the present application are inventive over Kanji et al and respectfully request the Examiner to reconsider her rejections and allow the case to issue.

Applicants would like to bring to the Examiner's attention copending application No. 10/585837.

Applicants respectfully petition for a month extension of time. Although the Applicants believe in good faith that only one month extension of time is needed, the Applicants hereby petition for any necessary extensions of time. You are authorized to charge deposit account 04-1520 for any fees necessary to maintain the pendency of this application. You are authorized to make any additional copies of this sheet needed to accomplish the purposes provided for herein and to charge any fee for such copies to deposit account 04-1520.

Respectfully Submitted,

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